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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,319	02/20/2004	Duane Jury	165-231T-1	6877

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DAVID W.C. CHEN
P.O. BOX 3041
SEATTLE, WA 98114-3041

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/783,319

Applicant(s)

JURY, DUANE

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8-10 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 5, 8-10, and 18-20 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/24/06 to prosecute species II.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Poe (US 5,419,672 A).

Regarding claim 1, Poe discloses an extendable rack (10) coupled to a vehicle, the extendable rack comprising a retainer (14) fixedly attached to the vehicle and a slidable member (12), slidably attached to the retainer such that sliding the slidable member in a direction away from the retainer extends the extendable rack and sliding the slidable member in a direction toward the retainer retracts the extendable rack, said slidable member having a plurality of holding elements (26) for holding items on the extendable rack.

Regarding claim 2, Examiner is of the position that either the base (40) or chain of Poe can be considered utility racks to which the retainer is mounted. Both the base

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and chain are structures on which objects can be supported and can be considered coupled to the vehicle.

Regarding claim 3, at least a portion of the slidable member of Poe can be positioned beyond a rear portion of the vehicle when the extendable rack is extended (Figure 1).

Regarding claim 4, the retainer and slidable member of Poe are tubular in shape and coaxially disposed with respect to one another.

Regarding claim 6, the holding elements (26) of Poe are apertures. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Poe which is capable of being used in the intended manner, i.e., a retaining ball attached to a cord being received in the apertures. There is no structure in Poe that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 15, the normal operation and use of the device of Poe includes providing a tubular shaped retainer (14) having a slit (28) along its length, providing a tubular shaped slidable member (12) having a circular aperture (26), sliding the slidable member with respect to the retainer, and hanging at least one item on the slidable member.

Regarding claim 16, there is a mounting strip (40) coupled to the retainer of Poe.

4. Claims 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohout (US 1,132,190 A).

Regarding claim 11, Kohout discloses an extendable rack comprising a tubular shaped retainer (15) having a slit (16) extending longitudinally along a length of the retainer, and a slidable member (14) with at least a portion of the slidable member coaxially disposed within the retainer, the slidable member having a hook (20) attached thereto.

Regarding claim 15, the normal operation and use of the device of Kohout includes providing a tubular shaped retainer (15) having a slit (16) along its length, providing a tubular shaped slidable member (14) having a hook (20), sliding the slidable member with respect to the retainer, and hanging at least one item on the slidable member.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12, 13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohout as applied in paragraph 4 above in view of Hakeem (US 5,076,442 A).

The rack of Kohout includes the claimed features except for a mounting strip for mounting the extendable rack to a surface and a support strip coupled between the mounting strip and the retainer. Instead, Kohout teaches the rack being attached flush against a closet ceiling. Hakeem, however, also discloses a closet ceiling mounted

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clothing rack and teaches that the rack is secured to the ceiling via a mounting strip (30) and support strip (29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to attached the rack of Kohout to a ceiling using a mounting strip and support strip, as taught by Hakeem, since such attachment strips are a known means of attaching a clothing rack to a ceiling.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohout as applied in paragraph 4 above in view of Bennett et al. (US 4,260,063 A), and further in view of Van Iperen (US 4,538,738 A).

The rack of Kohout includes the claimed features except for at least one circular aperture having an integral notch and a retaining ball with cord assembly inserted into the circular aperture. Instead, Kohout teaches that hanging elements (20) are rigidly secured to the sliding support member (14) at spaced apart distances depending on the types of clothes to be hung (lines 87-101).

Regarding the circular apertures, Bennett et al. also discloses a clothing rack with hanging elements secured to a support member (8) and teaches that the support member includes circular apertures with notches (24) through which hanging elements (18/19/20) are attached. Each hanging element consists of a ball (20) to which a clothes hanger is attached. Once the ball portion of the hanging element is inserted into the circular aperture, the hanging element is free to slide about the support member through a slot extending along the length of the support member, allowing the distance between hanging clothes to be adjusted with ease. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the support

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member (14) and hanging elements (20) of Kohout with a support member having circular apertures/notches and ball shaped hanging elements like that of Bennett et al., so that a user could easily add and/or remove hanging elements from the support member and easily adjust the distance between clothes being hung from the support member.

Regarding the retaining ball with cord assembly, the hanging elements of Bennett et al. that have been implemented on the rack of Kohout include retaining balls, but do not include cord assemblies. Instead, the retaining balls of the modified Kohout rack are connected directly to specially formed hangers (9, Bennett et al.) via what appears to be a rigid projection (18/19, Bennett et al.). If a user wants to remove the clothes hanger from the modified Kohout rack, they must first remove the hanging element (19/20) from the support member. Van Iperen, on the other hand, also discloses a clothing rack and teaches that a cord assembly (40) can be suspended from a slidable support member (26) and that a clothing hanger (39) can then be attached to the cord assembly. If a user wants to remove the clothes hanger from the rack, they can do so without having to first remove the hanging element (40) from the rack. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the projections (18/19, Bennet et al.) of the modified Kohout hanging elements with cord assemblies, as taught by Van Iperen, so that a user would be able to quickly and easily remove a clothes hanger from the rack without having to first remove the hanging element that attaches the clothes hanger to the rack. Also, the implementation of cord assemblies on the modified Kohout rack would allow for conventional clothes hangers

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such as those shown by Van Iperen to be used in conjunction with the rack, rather than requiring the specially formed hangers taught by Bennett et al.

8. Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied in paragraph 7 above in view of Leeper (US 2,846,079 A).

Regarding claims 1, 2, 4, 6, and 7, the modified Kohout clothing rack as set forth in paragraph 7 above includes the claimed features except for the rack being mounted against a ceiling portion of a vehicle. Leeper, however, teaches that it is old and well known in the art to mount a slidable clothing rack against a ceiling portion of a vehicle as in the case of dry cleaning delivery truck. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the modified Kohout clothing rack against the ceiling of a vehicle, as taught by Leeper, in order to allow a user to conveniently transport clothes in a vehicle.

Regarding claim 3, the slidable member of the modified Kohout rack, when implemented in a vehicle, would be able to project beyond a rear portion of the vehicle when the rack was extended. The member could project out of the vehicle's trunk for assistance in loading the rack with clothes.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
2/15/07


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER